

New Mexico Compilation Commission

24-12A-2 . No written instructions; priority of others to decide disposition.

A. Except as provided in Subsection B of this section, if a decedent has left no written instructions regarding the disposition of the decedent's remains, the following persons in the order listed shall determine the means of disposition, not to be limited to cremation, of the remains of the decedent:

- (1) the surviving spouse;
- (2) a majority of the surviving adult children of the decedent;
- (3) the surviving parents of the decedent;
- (4) a majority of the surviving siblings of the decedent;
- (5) an adult who has exhibited special care and concern for the decedent, who is aware of the decedent's views and desires regarding the disposition of the decedent's body and who is willing and able to make a decision about the disposition of the decedent's body; or
- (6) the adult person of the next degree of kinship in the order named by New Mexico law to inherit the estate of the decedent.

B. If a decedent left no written instructions regarding the disposition of the decedent's remains, died while serving in any branch of the United States armed forces, the United States reserve forces or the national guard and completed a United States department of defense record of emergency data form or its successor form, the person authorized by the decedent to determine the means of disposition on a United States department of defense record of emergency data form shall determine the means of disposition, not to be limited to cremation.

History: Laws 1993, ch. 200, § 2; 1995, ch. 17, § 1; 2011, ch. 22, § 2.